

DEPARTMENT OF THE ARMY PERMIT

Permittee: Walter C. Neitzke
Colonel, Corps of Engineers
District Commander
On Behalf of the General Public

Permit No.: 87-000-2

Processing No.: Sample Regional Permit

Effective Date: June 12, 1995

Expiration Date: June 12, 2000

Affirmation Date: This permit has NOT been affirmed

Issuing Office: U.S. Army Engineer District, Buffalo
1776 Niagara Street
Buffalo, New York, 14207-3199

IMPORTANT: PRIOR TO COMMENCING THE ACTIVITY AUTHORIZED BY THIS PERMIT OR DIRECTING A CONTRACTOR TO PERFORM SUCH ACTIVITY ON YOUR BEHALF, BE SURE THAT ALL PARTIES READ, UNDERSTAND AND COMPLY WITH THE TERMS AND CONDITIONS OF THIS PERMIT.

NONCOMPLIANCE WITH ANY OF THE TERMS OR CONDITIONS MAY RESULT IN AN ORDER TO REMOVE THE ACTIVITY; CIVIL AND/OR CRIMINAL PENALTIES OR BOTH.

CONGRESSIONAL AUTHORITIES: You have been authorized to undertake the activity described below pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

Authorized Activity: Construct and maintain open pile or floating dock(s), dock(s) with a deck, observation or viewing platform(s) in wetlands or other special aquatic sites, stairway(s), mooring pile(s), mooring buoy(s), swim platform, marine railway, boat hoist and boat sheds that have received written affirmation of permit applicability from the U.S. Army Engineer District, Buffalo.

Location of the Authorized Activity: Navigable waters of the United States that are located within the State of Ohio and subject to regulation by the U.S. Army Engineer District, Buffalo.

The general public is hereby authorized by the Secretary of the Army to perform the work

authorized by this permit provided the following general and special conditions are fully complied with.

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer. The term "activity" as used in this permit includes all structures and work authorized by this permit.

GENERAL CONDITIONS:

1. The work authorized under this regional permit must begin within one year of the affirmation date and must be completed prior to the expiration date noted on the first page of this authorization. In the event that the affirmation date is less than twelve months prior to the expiration date, the regional permit will remain valid for twelve months from the affirmation date. In no case shall authorization exceed twelve months beyond the expiration date. If you find that you need more time to begin and/or complete the authorized activity, submit your written request for a time extension to this office for consideration at least three months before this authorization expires.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, unless you make a good faith transfer to a third party in accordance with General Condition No. 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you may be required to remove the structure(s) and restore the site to its original pre-project conditions.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

SPECIAL CONDITIONS:

1. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

2. Structures authorized by this permit shall not extend waterward more than 75 feet from the Ordinary High Water (OHW) shoreline or 20 percent of the waterway width, whichever is less. The waterway width is measured from the Ordinary High Water shoreline perpendicular to the centerline of the waterway.
3. This permit does not authorize the placement of enclosed buildings, boathouses, fuel storage tanks, sinks, toilets, showers, fuel dispensing or sanitary pump out facilities waterward of the Ordinary High Water shoreline.
4. Timber used for any in water component shall not be freshly treated with creosote, pentachlorophenol or petroleum based preservatives. Timber treated with these preservatives that has been weathered for several years may be used.
5. Configuration of dock(s) may vary in plan (i.e. straight, T, U, or L shaped) provided the total length of all segments does not exceed 150 feet and the surface area of the dock(s), including finger piers, decks, platforms, etc. does not exceed 900 square feet. The dock(s) shall not exceed 6 feet in width.
6. A regular or irregular shaped configuration (i.e. a deck) is allowed at the shoreline or at the waterward terminus of a dock provided the surface area of the deck does not exceed 240 square feet.
7. All structures authorized by this permit must be set back a minimum of 10 feet from the common boundary line of adjoining properties under separate ownership. The set back is measured at the point where the common boundary terminates at the Ordinary High Water shoreline. This condition may be waived upon Corps receipt of a signed statement from the adjacent property owner indicating no objection to the project.
8. The top of the dock must be a minimum of 1 foot above the Ordinary High Water elevation.
9. The surface area of a raft or swim platform shall not exceed 200 square feet.
10. The surface area of a boat hoist or boat shed shall not exceed 600 square feet.
11. The total surface area of all observation or viewing platform(s) located in wetlands or other special aquatic sites shall not exceed 600 square feet. Construction of the platform(s) shall be open pile or floating.
12. The authorization of observation or viewing platform(s) in wetlands or other special aquatic sites is limited to Federal, State or local wildlife management or educational agencies.
13. Structures authorized by this permit may cross wetlands or other special aquatic sites, but the crossing must not exceed four feet in width and shall be a minimum of three feet above the Ordinary High Water elevation or substrate level if the area is typically not inundated.

14. All mooring buoys must be approved by the Ninth Coast Guard District. Information concerning the approval process may be obtained by calling (216) 902-6061 or by writing to:

Commander (OAN)
Ninth Coast Guard District
ATTN: Private Aids to Navigation
1240 East Ninth Street
Cleveland, OH 44199-2060

15. Multiple rafts, swim platforms, boat hoists, boat sheds, marine railways, docks, docks with a deck and observation or viewing platforms may be constructed provided that the proposed or all existing and proposed structures are within the size limitations specified in this permit.

16. A variance in the dimensions of a structure may be granted in cases where conformity with existing structures would be practical, where exceptions would be reasonable due to the shoreline configuration, or for structures crossing wetlands or other special aquatic sites. All variances must be approved on a case by case basis by this office.

17. The District Commander reserves the right to include any additional special conditions or require an individual permit as may be necessary to safeguard the public interest or protect important public resources on a case by case basis.

SPECIAL PROCESSING REQUIREMENT:

1. In cases where this regional permit is used to approve structures in or adjacent to deep draft navigation channels maintained by the Federal Government, the Corps review process must include the gathering and consideration of comments from area shipping interests.

EXCLUSIONS:

This permit does not apply to:

1. Activities that will take place in wetlands as defined in Title 33 of the Code of Federal Regulations Part 328.3(b) or other special aquatic sites as defined in the U.S. Environmental Protection Agency Guidelines for Specification of Disposal Sites for Dredged or Fill Material contained in Title 40 of the Code of Federal Regulations Parts 230.40 through 230.45 except for structures described in Special Conditions 11, 12 and 13 of this permit.

2. Activities that have an effect on historic, cultural or archaeological sites as identified in the latest published version of the National Register of Historic Places, or sites eligible for inclusion in this register, unless the State Historic Preservation Officer makes a determination that the effect will not be adverse.

3. Activities that have an effect on sites included in the latest published version of the National Register of Historic Landmarks, which are published periodically in this register, unless

the State Historic Preservation Officer makes a determination that the effect will not be adverse.

4. Any other areas named in Acts of Congress or Presidential Proclamations as National Wilderness Areas, National Recreation Areas, Lakeshores, Parks, Monuments and such areas as may be established under Federal Law for similar and related purposes, such as estuaries and marine sanctuaries, except where specifically authorized by this regional permit.

5. Activities that have an effect on a component of the National Wild and Scenic Rivers System, or areas listed in the Nationwide Rivers Inventory, Final List of Rivers for Ohio as published by the U.S. Department of the Interior, or in a component of a State Wild and Scenic River, unless the National Park Service and/or the Ohio Department of Natural Resources make the determination that the effect will not be adverse.

6. Activities that have an effect on rivers currently being studied at the direction of Congress as potential additions to the National Wild and Scenic Rivers System, or rivers for which Wild and Scenic Rivers studies have been completed and forwarded to Congress and which Congress is still considering, unless the National Park Service makes a determination that the effect will not be adverse.

7. Activities performed or proposed, unless the property owner has submitted a written request for authorization describing the work, and the District Commander has determined that it complies with the terms and conditions of this permit.

LIMITS OF THIS AUTHORIZATION:

1. The granting of this permit does not obviate the need to obtain other Federal, State or local authorizations as required by law.

2. Issuance of this permit does not grant you any property rights or exclusive privileges, nor does it authorize any injury to the property or rights of others.

3. This permit does not authorize interference with any existing or proposed Federal project, nor does it convey any authority to interfere with the right of the public to free navigation on all navigable waters of the United States.

LIMITS OF FEDERAL LIABILITY: In issuing this permit, the Federal Government does not assume any liability for the following:

1. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

2. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

3. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

4. Design or construction deficiencies associated with the permitted work.
5. Damages associated with any future modification, suspension, or revocation of this permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Copy of Signed Original Available Upon Request

District Commander

Date

When the property associated with the work authorized by this permit is sold or transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

Transferee

Date